



UNITED STATES PATENT AND TRADEMARK OFFICE

ST  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/371,462	08/01/1999	SUBUTAI AHMAD	ELECP014	9262

7590

07/30/2002

Lee Van Pelt, Esq  
Van Pelt & Yi LLP  
4906 El Camino Real Suite 205  
Los Altos, CA 94022

EXAMINER

GREENE, DANIEL L

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 07/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/371,462

Applicant(s)

AHMAD ET AL.

Examiner

Daniel L. Greene

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Status**

Applicant has canceled Claim 7 and amended claims 1,8,10,19 and 26 as per the Amendment. Claims 1-6 and 8-27 remain pending and are again presented for examination.

### ***Response to Amendment***

1. Applicant's arguments with respect to claims 1-6 and 8-9,19-25 have been considered but are moot in view of the new ground(s) of rejection.
2. The Applicant states that Claim 10 recites using a "series of images of the user to control the vision-enabled content by detecting an action by said user by processing said series of images." The Applicant further states, ... neither teaches using a "series of images of the user to control the vision-enabled content by detecting movements of the user based on changes in the respective images comprising the series of images." The Examiner disagrees because as pointed out by the Applicant, "Eilat teaches using a conventional virtual reality kit comprising sensors physically attached to the player to generate control signals based on movements by the player, ... The Examiner contends that " generate control signals based on the movement by the player" and "series of images (movement by the player) of the user to control ..." is one in the same. Therefore Eilat does in fact teach controlling the vision-enabled content by a series of images generated by the movement of the user.
3. Claims 11-18 depend from claim 10 and are rejected for the same reasons described above.

Art Unit: 3621

4. As per claim 26, the Examiner agrees with the Applicant that it is similar to claim 10 and is rejected for the same reasons described above.
5. Claim 27 depends from claim 26 and is rejected for the same reasons described above.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 26 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by

Eilat et al. US 6,227,974 B1.

As per Claim 26.

Eilat et al. ('974) discloses:

sending content to a user over a network. Col. 5, lines 15-25.

receiving a series of images of the user. Col. 5, lines 15-25.

recognizing a person image of the user in at least two images comprising the series of images. Col. 5, lines 15-25.

controlling the content based on the person image by detecting an action by the user based on changes in the person image between the at least two images; Col. 17, lines 3-5.

outputting the content. Col. 5, lines 15-25.

As per Claim 27.

Eilat et al. ('974) discloses all the limitations of Claim 26:

Eilat et al. ('974) further discloses:

wherein the outputted content includes an interaction between the person image and the content. Col. 17, lines 3-5.

***Claim Rejections - 35 USC § 103***

***3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:***

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2,4-6,8-11 and 13-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eilat et al. US 6,227,974 B1 in view of Ginter et al. US 6,253,193 B1 and Pare, Jr. US 5,870,723 [Pare, Jr. '723].

As per Claim 1.

Eilat et al. ('974) discloses:

encoding content for conversion into vision-enabled content, Col. 4, lines 1-15  
providing a program to decode the vision-enabled content, Col. 5, lines 40-51.

sending the selected subset of the vision-enabled content to a user over the Internet, wherein the program decodes

the selected subset of the vision-enabled content and receives an image of the user and combines the image of the user with the vision-enabled content. Col. 5, lines 15-25.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 46, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. encoding the content, Fig. 46 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; encoding the content for conversion into vision... of Ginter (193) for the benefit of cost recovery.

Eilat et al. ('974) further discloses receiving an image of a user and electronically assimilating the image into a data stream (interactive game) by a virtual studio. Col.5, lines 15-25 but, does not specifically address recognizing an identity of the

Art Unit: 3621

user based on said image of the user; selecting a subset of the vision-enabled content based on the identity of the user.

Pare, Jr. '723 teaches the use of biometrics as an authentication method to identify a user and subsequently provide access to blocks of data or ability to perform predetermined actions. Col. 4, lines 14-67.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to further utilize the image of the user of Eilat et al. ('974), as a means of authenticating the user as disclosed by Pare, Jr. '723 and reduce or eliminate the authentication procedure in Eilat et al. ('974),

As per Claim 2.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 1.

Eilat et al. ('974) further discloses:

encoding of the content is performed via "tools", Fig.4

Note: The definition of, "tools", is derived from the applicants description on page 7, second paragraph, "The tools, i.e. programs and hardware ..."

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 77, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. "payment being received in exchange for use of the tools", Fig. 77 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; payment being received in exchange for use of the tools of Ginter (193) for the benefit of cost recovery.

As per Claim 4.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 1.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 82, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an

Art Unit: 3621

event, i.e., "payment based on an amount of users receiving the vision-enabled content." Fig. 82 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; payment based on an amount of users receiving the vision-enabled content. of Ginter (193) for the benefit of cost recovery.

As per Claim 5.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 1.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 81, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. receiving payment based on a quantity of vision-enabled content sent, Fig. 81, demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; receiving payment based on a quantity of vision-enabled content sent, of Ginter (193) for the benefit of cost recovery.

As per Claim 6.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 1.

Eilat et al. ('974) further teaches the vision-enabled content includes at least one of advertising, entertainment content, and education content Col. 10, lines 20-23.

As per Claim 8.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 1.

Eilat et al. ('974) does not disclose associating the user with a group and selecting the selected subset of vision-enabled content based on the association of the user with the group.

Art Unit: 3621

Ginter (193) teaches, see Fig. 81, associating the user with a group and selecting the selected subset of vision-enabled content based on the association of the user with the group to enhance the benefit of the service and provide the user with previous selected programs.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the gaming program the ability of associating the user with a group and selecting the selected subset of vision-enabled content based on the association of the user with the group to enhance the benefit of the service and provide the user with previous selected programs.

As per Claim 9.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 1.

Eilat et al. ('974) does not disclose collecting statistical data.

Ginter (193) teaches, see Fig. 46, collecting statistical data, for the benefit of determining the success rate and usage of a program for future business decisions.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the gaming program the ability of collecting statistical data, for the benefit of determining the success rate and usage of a program for future business decisions

As per Claim 10.

Eilat et al. ('974) discloses:

encoding content for conversion into vision-enabled content, Col. 4, lines 1-15  
providing a program to decode the vision-enabled content, Col. 5, lines 40-51.  
sending the vision-enabled content to a user over the Internet, wherein the program decodes the vision-enabled content and receives a series of images of the user and utilizes the series of images of the user to control the vision-enabled content by detecting an action by said user by processing said series of images. Col. 5, lines 15-25.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 46, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. encoding the content, Fig. 46 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services



Art Unit: 3621

such as; encoding the content for conversion into vision... of Ginter (193) for the benefit of cost recovery.

As per Claim 11.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Eilat et al. ('974) further discloses:

encoding of the content is performed via "tools", Fig.4

Note: The definition of, "tools", is derived from the applicants description on page 7, second paragraph, "The tools, i.e. programs and hardware ..."

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 77, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. "payment being received in exchange for use of the tools", Fig. 77 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; payment being received in exchange for use of the tools of Ginter (193) for the benefit of cost recovery.

As per Claim 13.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 82, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e., "payment based on an amount of users receiving the vision-enabled content." Fig. 82 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; payment based on an amount of users receiving the vision-enabled content. " of Ginter (193) for the benefit of cost recovery.

As per Claim 14.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Art Unit: 3621

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 82, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e., "payment based on an amount of users receiving the vision-enabled content." Fig. 82 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; payment based on an amount of users receiving the vision-enabled content." of Ginter (193) for the benefit of cost recovery.

As per Claim 15.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Eilat et al. ('974) further discloses the vision-enabled content includes at least one of advertising, entertainment content, and education content Col. 10, lines 20-23.

As per Claim 16.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim Eilat et al. ('974) does not disclose recognizing an identity of the user and selecting vision-enabled content based on the identity of the user, the selected vision-enabled content being sent to the user.

Ginter (193) teaches, see Fig. 81, recognizing an identity of the user and selecting vision-enabled content based on the identity of the user, the selected vision-enabled content being sent to the user to enhance the benefit of the service and provide the user with previous selected programs.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the gaming program the ability of recognizing an identity of the user and selecting vision-enabled content based on the identity of the user, the selected vision-enabled content being sent to the user to enhance the benefit of the service and provide the user with previous selected programs.

As per Claim 17.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Eilat et al. ('974) does not disclose associating the user with a group and selecting vision-enabled content based on the association of the user with the group, the selected vision-enabled content being sent to the user.

Ginter (193) teaches, see Fig. 81, associating the user with a group and selecting vision-enabled content based on the association of the user with the group, the selected

Art Unit: 3621

vision-enabled content being sent to the user to enhance the benefit of the service and provide the user with previous selected programs.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the gaming program the ability of associating the user with a group and selecting vision-enabled content based on the association of the user with the group, the selected vision-enabled content being sent to the user to enhance the benefit of the service and provide the user with previous selected programs.

As per Claim 18.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Eilat et al. ('974) does not disclose collecting statistical data.

Ginter (193) teaches, see Fig. 46, collecting statistical data, for the benefit of determining the success rate and usage of a program for future business decisions.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the gaming program the ability of collecting statistical data, for the benefit of determining the success rate and usage of a program for future business decisions

As per Claim 19.

Eilat et al. ('974) discloses:

encoding content for conversion into vision-enabled content, Col. 4, lines 1-15

providing a program to decode the vision-enabled content, Col. 5, lines 40-51.

sending the selected subset of the vision-enabled content to a user over the Internet, wherein the program decodes

the selected subset of the vision-enabled content and receives an image of the user and combines the image of the user with the vision-enabled content. Col. 5, lines 15-25.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 46, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. encoding the content, Fig. 46 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; encoding the content for conversion into vision... of Ginter (193) for the benefit of cost recovery.

Art Unit: 3621

Eilat et al. ('974) further discloses receiving an image of a user and electronically assimilating the image into a data stream (interactive game) by a virtual studio. Col.5, lines 15-25 but, does not specifically address recognizing an identity of the user based on said image of the user; selecting a subset of the vision-enabled content based on the identity of the user.

Pare, Jr. '723 teaches the use of biometrics as an authentication method to identify a user and subsequently provide access to blocks of data or ability to perform predetermined actions. Col. 4, lines 14-67.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to further utilize the image of the user of Eilat et al. ('974), as a means of authenticating the user as disclosed by Pare, Jr. '723 and reduce or eliminate the authentication procedure in Eilat et al. ('974),

As per Claim 20.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 19.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 81, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. receiving payment based on a number of users who the vision-enabled content has been sent to, Fig. 81, demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; receiving payment based on a number of users who the vision-enabled content has been sent to, of Ginter (193) for the benefit of cost recovery.

As per Claim 21.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 19.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193), teaches, see Fig. 77, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services

Art Unit: 3621

for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. payment being received in exchange for the program, Fig. 77 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; payment being received in exchange for the program, of Ginter (193) for the benefit of cost recovery.

As per Claim 22.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 19.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services

Ginter (193), teaches, see Fig. 77, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. storing the vision-enabled content and receiving payment for storing the vision-enabled content, Fig. 77 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; storing the vision-enabled content and receiving payment for storing the vision-enabled content for the benefit of cost recovery.

As per Claim 23.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 19.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services

Ginter (193), teaches, see Fig. 81, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. receiving payment based on a quantity of vision-enabled content sent, Fig. 81 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; storing the

Art Unit: 3621

vision-enabled content and receiving payment for storing the vision-enabled content for the benefit of cost recovery.

As per Claim 24.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 19.

Eilat et al. ('974) does not disclose collecting statistical data.

Ginter (193) teaches, see Fig. 46, collecting statistical data, for the benefit of determining the success rate and usage of a program for future business decisions.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the gaming program the ability of collecting statistical data, for the benefit of determining the success rate and usage of a program for future business decisions

As per Claim 25.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 24.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services

Ginter (193), teaches, see Fig. 46, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. receiving payment in exchange for access to the statistics.

Fig. 46 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; receiving payment in exchange for access to the statistics for the benefit of cost recovery.

5. Claims 3&12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eilat et al., US 6,227,974 B1 in view of Ginter et al. US 6,253,193 B1 and Pare, Jr. US 5,870,723 [Pare, Jr. '723] as applied to claims 1 and 10 above, and further in view of Apfel et al., US 5,974,454.

As per Claim 3.

Eilat et al. ('974), Ginter (193) and Pare, Jr. '723 disclose all the limitations of Claim 1.

Neither Eilat et al. ('974), Ginter (193) or Pare, Jr. '723 discloses "providing an upgrade for the program ..." However, providing an upgrade for a computer program is

Art Unit: 3621

not a unique action and would have been obvious to the programmers and company marketing the software.

Apfel ('454) teaches, monitoring the date of a program and if it is on or after a date stored in a register, determine if an upgrade package for the software is available. If an upgrade package is available, notify the user and proceed as per the user's direction. Fig. 4A/B. Providing an upgrade for a computer program is not a unique action and would have been obvious to the programmers and companies marketing their software to insure their program maintains the state of the art attributes to enhance their profitability.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to anticipate and plan to upgrade their program to insure their program maintains the state of the art attributes to enhance their profitability.

Ginter (193), teaches, see Fig. 46, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. payment being received in exchange for the upgrade, Fig. 46 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into a "pay program", the receiving of payments for performing electronic actions and providing electronic services such as; payment being received in exchange for the upgrade for the benefit of cost recovery.

As per Claim 12.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Neither Eilat et al. ('974) nor Ginter (193) discloses "providing an upgrade for the program ..." However, providing an upgrade for a computer program is not a unique action and would have been obvious to the programmers and company marketing the software.

Apfel ('454) teaches, monitoring the date of a program and if it is on or after a date stored in a register, determine if an upgrade package for the software is available. If an upgrade package is available, notify the user and proceed as per the user's direction. Fig. 4A/B. Providing an upgrade for a computer program is not a unique action and would have been obvious to the programmers and companies marketing their software to insure their program maintains the state of the art attributes to enhance their profitability.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to anticipate and plan to upgrade their program to insure their program maintains the state of the art attributes to enhance their profitability.

Ginter (193), teaches, see Fig. 46, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services

for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. payment being received in exchange for the upgrade, Fig. 46 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into a "pay program", the receiving of payments for performing electronic actions and providing electronic services such as; payment being received in exchange for the upgrade for the benefit of cost recovery.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703.306.5539. The examiner can normally be reached on M-Thurs. (8:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P Trammell can be reached on 703.305.9768. The fax phone numbers for the organization where this application or proceeding is assigned are



Application/Control Number: 09/371,462

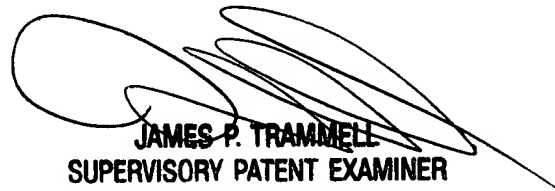
Page 16

Art Unit: 3621

703.305-7687 for regular communications and 703.305.7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308-1113.

DLG  
July 17, 2002



**JAMES P. TRAMMELL**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**